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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3606

12 **IV SOLUTIONS INC.**  
**Alireza Varastehpour-President**  
13 **3384 Motor Avenue**  
**Los Angeles, CA 90034**  
14 **Original Pharmacy Permit No. PHY 45885**

OAH No. L-2010080069

**A C C U S A T I O N**

15 Respondents.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about May 9, 2002, the Board of Pharmacy issued Original Pharmacy Permit  
22 Number PHY 45885 to IV Solutions Inc. with Alireza Varastehpour aja Alex Vara as President  
23 (Respondent IV Solutions). The Original Pharmacy Permit was in full force and effect at all  
24 times relevant to the charges brought herein and will expire on May 1, 2010, unless renewed.  
25 Board records show that Jeannie Kim was the Pharmacist-in-Charge from November 25, 2008 to  
26 February 16, 2009.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

5. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(c) Gross negligence.

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

....

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

"(p) Actions or conduct that would have warranted denial of a license.

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1           6.     Section 4051 of the Code states:

2           "(a) Except as otherwise provided in this chapter, it is unlawful for any person to  
3 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to  
4 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she  
5 is a pharmacist under this chapter.

6           "(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a  
7 prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or  
8 patient consultation if all of the following conditions are met:

9           "(1) The clinical advice or information or patient consultation is provided to a health care  
10 professional or to a patient.

11           "(2) The pharmacist has access to prescription, patient profile, or other relevant medical  
12 information for purposes of patient and clinical consultation and advice.

13           "(3) Access to the information described in paragraph (2) is secure from unauthorized  
14 access and use."

15           7.     Section 4081 also provides that the owner, officer and partner of any pharmacy or  
16 wholesaler shall be jointly responsible with the pharmacist-in-charge or exemptee for maintaining  
17 the records and inventory. A current inventory shall be kept by every pharmacy and wholesaler  
18 holding a currently valid and un-revoked license.

19           8.     Section 4113 (b) of the Code provides that the pharmacist-in-charge shall be  
20 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining  
21 to the practice of pharmacy.

22           9.     Section 4324 of the Code states:

23           "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
24 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
25 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
26 state prison, or by imprisonment in the county jail for not more than one year.

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1       "(b) Every person who has in his or her possession any drugs secured by a forged  
2       prescription shall be punished by imprisonment in the state prison, or by imprisonment in the  
3       county jail for not more than one year."

4       10.   Section 4305 of the Code states:

5       "(a) Any person, who has obtained a license to conduct a pharmacy, shall notify the board  
6       within 30 days of the termination of employment of any pharmacist who takes charge of, or acts  
7       as manager of the pharmacy. Failure to notify the board within the 30-day period shall constitute  
8       grounds for disciplinary action.

9       "(b) Any person who has obtained a license to conduct a pharmacy, who willfully fails to  
10      notify the board of the termination of employment of any pharmacist who takes charge of, or acts  
11      as manager of the pharmacy, and who continues to permit the compounding or dispensing of  
12      prescriptions, or the furnishing of drugs or poisons, in his or her pharmacy, except by a  
13      pharmacist, shall be subject to summary suspension or revocation of his or her license to conduct  
14      a pharmacy.

15      "(c) Any pharmacist who takes charge of, or acts as manager of a pharmacy, who  
16      terminates his or her employment at the pharmacy, shall notify the board within 30 days of  
17      termination of employment. Failure to notify the board within the 30-day period shall constitute  
18      grounds for disciplinary action."

19      11.   Title 16, California Code of Regulations (hereinafter "CCR") section 1709.1,  
20      provides in part, that a pharmacist-in-charge of a pharmacy shall be employed at that location and  
21      shall have responsibility for the daily operation of the pharmacy.

22      CCR Section 1793.1 provides, in part, that only a registered pharmacist, or an intern  
23      pharmacist acting under the supervision of a registered pharmacist, may:

24      "(a)   receive a new prescription order orally from a prescriber or other person authorized  
25      by law...

26      (f)    supervise the packaging of drugs and check the packaging procedure and product  
27      upon completion;

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1 (g) be responsible for all activities of pharmacy technician to ensure that all such  
2 activities are performed completely, safely and without risk of harm to patients;

3 (h) perform any other duty which federal or state law or regulation authorizes only a  
4 registered pharmacist to perform; and

5 (i) perform all functions which require professional judgment”.

6 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
7 administrative law judge to direct a licensee found to have committed a violation or violations of  
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
9 enforcement of the case.

10 13. “Lovenox” is a prescription anticoagulant that prevents the formation of blood clots  
11 and is a dangerous drug per Business and Professions Code Section 4022.

12 FIRST CAUSE FOR DISCIPLINE

13 (Violation of State Law Governing Pharmacy/Receiving and  
14 Holding Misbranded Dangerous Drugs)

15 14. Respondent IV Solutions is subject to disciplinary action for unprofessional conduct  
16 within the meaning of Code Section 4301 subdivisions (j) and (o) in conjunction with Health and  
17 Safety Code Section 111440 for importing 215 vials of Lovenox which are dangerous drugs, from  
18 Canada that were both misbranded and restricted to sales in Canada.

19 SECOND CAUSE FOR DISCIPLINE

20 (Noncompliant Ordering and Delivery to an Unlicensed Facility)

21 15. Respondent IV Solutions is subject to disciplinary action for unprofessional conduct  
22 within the meaning of Code Section 4301 subdivisions (j) and (o) in conjunction with Code  
23 Section 4059.5(a) for ordering and delivering Lovenox, a dangerous drug, to an unlicensed  
24 premise.

25 THIRD CAUSE FOR DISCIPLINE

26 (Noncompliant Security)

27 16. Respondent IV Solutions is subject to disciplinary action for unprofessional conduct  
28 within the meaning of Code Section 4301 Subdivisions (j) and (o) for violation of Regulation

1 1714(d) and (e) in that its owner Alex Vara was in possession of the pharmacy key on February  
2 29, 2008 and April 7, 2008, and opened the pharmacy without a pharmacist present.

3 FOURTH CAUSE FOR DISCIPLINE

4 (Pharmacy Operating without a Pharmacist Present)

5 17. Respondent IV Solutions is subject to disciplinary action for unprofessional conduct  
6 within the meaning of Code Section 4301 Subdivisions (j) and (o) and 4081 for violations of  
7 Code Sections 4113(b), 4305(b), 4305(b), and Regulation 1793.1, in that owner Alex Vara  
8 opened the pharmacy for business on February 29, 2008 without a pharmacist present. On April  
9 17, 2008, Alex Vara opened the pharmacy for business without a pharmacist present and a  
10 pharmacy technician was allowed to mix an IV Solution at the pharmacy while no pharmacist was  
11 present.

12 FIFTH CAUSE FOR DISCIPLINE

13 (Noncompliant Pharmacist Identification)

14 18. Respondent IV Solutions is subject to disciplinary action for unprofessional conduct  
15 within the meaning of Code Section 4301 Subdivisions (j) and (o) for violation of Regulation  
16 1717(f) in that during a Board investigation on February 29, 2008, an investigator found that the  
17 pharmacy did not have a system to identify which pharmacist was responsible for the filling of a  
18 prescription. Moreover, on April 7, 2008, upon further investigation, the investigator found that  
19 the pharmacy still had not implemented a system after having been ordered to do so.

20 SIXTH CAUSE FOR DISCIPLINE

21 (Non-Pharmacist Filling Prescriptions)

22 19. Respondent IV Solutions is subject to disciplinary action under Code Section  
23 4051 subdivision (a) in that during a Board investigation, the pharmacy was found to have non-  
24 pharmacists filling multiple prescriptions for controlled substances and dangerous drugs from  
25 March 1, 2008 to March 20, 2008.

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SEVENTH CAUSE FOR DISCIPLINE

(Noncompliant Refilling of Controlled Substance)

20. Respondent IV Solutions is subject to disciplinary action under Code Section 4301 Subdivisions (j) and (o) in conjunction with Health and Safety Code Section 11200(c) for refilling a Schedule II controlled substance on March 14, 2008.

EIGHTH CAUSE FOR DISCIPLINE

(Making of False Documents)

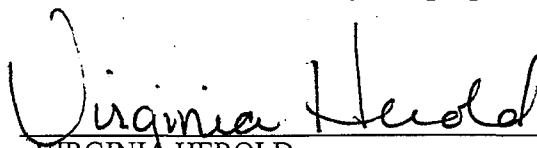
21. Respondent IV Solutions is subject to disciplinary action under Code Section 4301 subdivision (g) in that Respondent IV Solutions, through its owner, Alex Vara, falsely represented an unlicensed facility, Stat Clinic Pharmacy, as a pharmacy and provided pharmacy services to approximately 25 patients, which included creating and receiving pharmacy-related documentation with patients and/or their physicians such as contracts and agreements, medical forms, confidential medical records, and prescriptions.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Permit Number PHY 45885, issued to IV Solutions, Inc.
2. Ordering IV Solutions, Inc. to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/25/11

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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